IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL WRIT PETITION NO.601 OF 2007

Sushma Dayashankar Dubey ...Petitioner.
V/s.
State of Maharashtra & Ors. ...Respondents.

Shri Sanjay Bhatia, adv. for the Petitioner.
T.Prabhudas, adv. for the respondent no.2.
Mr.D.P.Adsule, APP for the State.

CORAM: J.H.BHATIA, J.
DATE : 10th April, 2007.

P.C.:

1. Heard Mr.Sanjay Bhatia the learned counsel for the petitioner, Mr.T.Prabhudas the learned counsel for the respondent no.2 and Mr.Adsule, the learned APP for the State.

2. The petitioner is original accused nos.1 and the respondent no.3 is original accused no.2. Respondent no.2 is original complainant and mother of the minor girl, who was aged about 14 years and who was allegedly taken away by the petitioner and respondent no.3. The complaint was lodged by the respondent no.2. The offence under Section 366(A) of the I.P.C. came to be registered against the petitioner and the respondent no.2. After investigation charge-sheet was filed and the case was also committed to the Court of Sessions for trial. It is registered as Sessions Case No.784 of

2005. Trial is actually in progress and some evidence is also recorded. The petitioner sought permission from the Sessions Court to compound the offence but the application came to be rejected by the learned Ad-hoc Additional Sessions Judge on the ground that the offence is not compoundable. Being aggrieved by the same, the petitioner has filed this petition. It is contended that the girl, who was allegedly taken away, is already married. Her mother, who is original complainant and the petitioner have resolved the dispute amicably and in view of the compromise, the proceeding may be quashed. The respondent no.2 had filed her consent for compounding the offence before the trial Court. The learned counsel for the respondent no.2 supports the petition. However, Mr.Adsule, the learned APP strongly opposed application on the basis that the offence punishable under Section 366A is not compoundable. He contends that merely because the private party wants to compound the case, it will not be in the interest of justice to quash the proceeding by invoking writ jurisdiction of this Court.

3. The offence under Section 366A is about procuration of minor girl under the age of 18 years with intent that such girl may be or knowing that it is likely that she will be forced or seduced to illicit

intercourse with another person and is punishable with imprisonment which may extend to ten years, and also fine. The offence is serious and against the public policy also. The learned counsel for the petitioner contends that in some matters, the Supreme Court allowed to quash the proceeding even when the offence is not compoundable. However, such permission is given only when there are matrimonial disputes between the husband and wife and they have amicably settled their disputes. Offences registered because of the matrimonial disputes between them may be allowed to be compounded or proceeding may be quashed with mutual consent of the parties. It can not be stated generally when the offence is non compoundable under the provisions of Section 320 of the Cr.P.C., High Court may invoke writ jurisdiction and quash the proceeding and thereby give a go-bye to the specific provisions of law about compounding of offences. Mr.Adsule the learned APP pointed out that the learned Single Judge of this Court in **Yashwant Bapu Parit v. State of Maharashtra 2007(1) Maharashtra Law Journal 834** came to a conclusion that when the offence is not compoundable under Section 320 of the I.P.C. even the High Court can not permit the parties to compound the offence.

4. The offence under Section 366A is a serious

offence against the public policy and against the society in general and not only against any individual. The offence is made non-compoundable by the legislature. Therefore, it will not be proper for this Court to invoke writ jurisdiction to quash the proceedings and thereby to practically allow the parties to compound the offence in violation of specific provisions of law.

5. In view of the above circumstances, petition stands rejected summarily.

(J.H.Bhatia,J.)